

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

MICHAEL MOATES,

Plaintiff,

vs.

**JEREMY RANDALL HOLT and
INDEPENDENCE BEHAVIOR
SOLUTIONS,**

Defendants.

Case No.: 4:22-CV-00154-WTM-CLR

**DEFENDANTS' RESPONSE AND OBJECTION TO THE MAGISTRATE JUDGE'S
JULY 6 AND JULY 12 REPORTS AND RECOMMENDATIONS**

COME NOW Jeremy Randall Holt and Independence Behavior Solutions, Defendants in the above-captioned lawsuit (collectively "Defendants"),¹ and respond to the Magistrate Judge's July 6 and July 12 Reports and Recommendations (Docs. 11 and 13), respectfully showing the Court as follows:

1.

This matter was transferred to this Court from the Northern District of Texas on June 22, 2022. (Doc. 6).

2.

On July 6, 2022, the Magistrate Judge issued an Order and Report and Recommendation: (A) ordering Plaintiff Michael Moates to supplement his application to proceed *in forma pauperis* by July 20, 2022; (B) recommending that Plaintiff's requests for preliminary injunction and

¹ As of the filing of this Response, Defendants have not been served, and reserve all defenses, including objections to jurisdiction and service.

temporary restraining order be denied, for failure to certify in writing that he provided notice to Defendants; and (C) directing the Clerk to maintain the Complaint (Doc. 1) under seal until further Order from the Court. (Doc. 11).

3.

On July 12, 2022, the Magistrate Judge issued another Report and Recommendation recommending that Plaintiff's Complaint be dismissed because Plaintiff has failed to keep the Court apprised of his current address, in violation of the Local Rules. (Doc. 13). The Court provided, however, that Plaintiff could provide the Court with a current address by July 26, 2022. (Doc. 13). The Court noted that it has the authority to "prune cases from its dockets where parties have failed to comply with its Orders." (Doc. 13 at 2).

4.

As noted in the July 6 Order and Report and Recommendation, Defendants specially appeared to request that: (A) the Complaint be maintained under seal; and (B) the Court direct Plaintiff to review and comply with Georgia law and the rules of this Court when filing pleading and other materials, including but not limited to this Court's Local Rules and Administrative Procedures. (Doc. 11 at 6-7; *see also* Doc. 10 (Motion)).

5.

Because today is the 14th day from the July 6 Order and Report and Recommendation, Defendants submit this filing to note their agreement with the July 6 and July 12 Reports and Recommendations (with one objection noted below), to reiterate their motion for the Complaint to remain under seal (Doc. 10), for the reasons outlined therein, and to note further that Plaintiff has not filed a response to their Motion within the required 14 days, nor has he asked for an extension. *See* S.D. Ga. L.R. 7.5 (responses to motion shall be filed within 14 days of service).

6.

Defendants' sole objection to the July 6 and July 12 Reports and Recommendations is that while Defendants asked that the Court maintain the Complaint under seal *and* direct Plaintiff to review and comply with Georgia law and the rules of this Court when filing pleading and other materials, including but not limited to this Court's Local Rules and Administrative Procedures, (Doc. 10), the July 6 Order only directs the Clerk to maintain the Complaint under seal.

For the reasons outlined below, Defendants respectfully request that, *if* the Court does not dismiss Plaintiff's Complaint as Recommended by the Magistrate Judge, the Court order Plaintiff to review and comply with applicable law and the rules of this Court when filing pleading and other materials, including but not limited to this Court's Local Rules and Administrative Procedures.

After the issuance of the July 6 Order and Report and Recommendation, Plaintiff sent to Defendants what appears to be an additional potential filing in this case, but which does not appear to have been filed with the Court as of the filing of this Response. The additional potential filing contains some of the same private information contained in Plaintiff's Complaint and for the same reasons outlined in Defendants' Motion to Seal (Doc. 10), this potential filing should also be sealed. Defendants believe that if the Court does not dismiss the Complaint, an instruction to Plaintiff to review and comply with applicable law and Court rules when submitting filings would potentially avoid a motion to seal following every filing with inappropriate subject matter, and would save the parties and the Court unnecessary trouble and expense.²

² As noted in previous filings, Defendants are hesitant to specifically identify the subject matter giving rise to their Motion to Seal in an open filing, but will readily provide such information *in camera* or through whatever other method the Court might direct where the privacy of such information may be maintained.

Respectfully submitted this 20th day of July 2022.

s/Shawn A. Kachmar

Shawn A. Kachmar

Georgia Bar No. 405723

Gracie Shepherd

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 20, 2022, *Defendants' Response and Objection to the Magistrate Judge's July 6 and July 12 Reports and Recommendations* was filed electronically with the Clerk's CM/ECF system and that such filing was sent electronically using the CM/ECF system to the following (if the party mentioned below is registered to receive filings through the CM/ECF system) and by first class mail, along with a copy of the Notice of Electronic Filing, to:

Michael Moates
6004 Oakland Bend Drive #116
Fort Worth, Texas 76112

Respectfully submitted this 20th day of July 2022.

s/Shawn A. Kachmar

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